



4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 179

[HM-233A]

Special Permit Marking Removal

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Removal of obsolete Special Permit markings.

SUMMARY: On January 25, 2011, FRA published a Federal Register document stating that markings on tank cars related to certain gross weight on rail (GRL) Special Permits that had been incorporated into the hazardous materials regulations (HMR) by a Pipeline and Hazardous Materials Safety Administration (PHMSA) rulemaking were required to be removed or obliterated by January 25, 2012, or at each subject tank car's first shopping event, whichever occurred first. This document relieves tank car owners from that previously stated deadline and extends the time for removal of the markings until the date of each subject tank car's next required qualification.

DATES: [insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Karl Alexy, Acting Staff Director, Hazardous Materials Division, FRA, 1200 New Jersey Avenue, SE., Mailstop 25, Washington, DC 20590, (202) 493-6245.

SUPPLEMENTARY INFORMATION:

I. Background

Historically, the HMR, at 49 CFR 179.13, limited rail tank cars transporting hazardous materials to a GRL limitation of 263,000 pounds. Certain tank cars were able to operate in excess of that GRL limitation if permitted to do so via a Special Permit issued by PHMSA. However, on May 14, 2010, PHMSA published a final rule amending the HMR to incorporate provisions contained in several widely used or longstanding Special Permits that had an established safety record. 75 FR 27205. The final rule amended the HMR to allow, upon the approval of FRA, certain rail tank cars transporting hazardous materials to exceed the GRL limitation of 263,000 pounds without the need for a Special Permit. On January 25, 2011, FRA published a Federal Register notice providing such approval for certain tank cars. 76 FR 4250. In that notice, FRA stated that all markings on tank cars subject to the GRL Special Permits that had been incorporated into the HMR by the final rule and approved by FRA were required to be removed or obliterated by January 25, 2012, or at the car's first shopping event, whichever date occurred first.¹

As background, the requirement to mark Special Permit packagings is provided for in the HMR at 49 CFR 172.302(c). That section requires that a tank car operating under a Special Permit must have the permit number marked on the car (unless this requirement was waived under the terms of a Special Permit). These markings are typically applied to tank cars at the time of their qualification. Certain tank cars exceeding the GRL limitation of 263,000 pounds were previously required to operate under a Special Permit. Those tank cars were required to be marked with the appropriate Special Permit number. However, upon the PHMSA final rule incorporating the

¹ The rail tank cars subject to the notice which were required to have such markings removed were cars previously operating under PHMSA Special Permits 11241, 11654, 11803, 12423, 12561, 12613, 12768, 12903, 13856, 13936, 14004, 14038, 14207, 14398, 14505, and 14734.

applicable GRL Special Permits into the HMR (and FRA's subsequent approval notice) those Special Permits and their corresponding Special Permit number markings on the subject tank cars became obsolete.

Since FRA's publication of the notice, FRA has received a number of requests to extend the deadline for removal of the Special Permit markings on tank cars subject to that notice. Such requests were based on the fact that owners of large fleets of tank cars would have to remove such cars from service in order to send them to an appropriate tank car facility or a loading/unloading facility to have the markings removed. Such a procedure could potentially be both costly to industry and inefficient. The requesters also pointed out that loading/unloading facilities may not be configured to allow for safe access to the location of the existing markings. Finally, personnel at loading/unloading facilities may not have the proper equipment or training to remove or obliterate the appropriate markings.

FRA recognizes the logistical and cost concerns regarding the ability of the railroad industry to comply with the pending January 25, 2012, deadline to remove these now obsolete GRL Special Permit markings. FRA also recognizes that markings are typically applied to tank cars at the time of qualification, and that tank car facilities performing such qualification inspections are equipped to safely access all areas of the tank car and properly remove and/or apply required markings. Also, the obsolete GRL Special Permit markings remaining on the tank cars subject to the FRA notice do not represent a safety or environmental risk. There is no risk as these cars were previously permitted to operate at a GRL of greater than 263,000 pounds via Special Permit, and the

now obsolete markings merely reflected such. The PHMSA final rule incorporated the applicable Special Permits into the HMR, which alleviated the need for a Special Permit.

Based on the above discussion, the absence of any safety risk, and in order to avoid annual requests for the extension of the deadline listed in FRA's January 25, 2011, Federal Register notice, FRA has decided to extend the deadline for the removal of the obsolete Special Permit markings to the date of each subject tank car's next required qualification pursuant to 49 CFR Part 180.

II. Extension of Deadline to Remove Obsolete PHMSA Special Permit Markings from Tank Cars

Each rail tank car subject to FRA's January 25, 2011, Federal Register notice (76 FR 4250) may continue in transportation with the obsolete GRL Special Permit markings present until the date of each car's next required qualification pursuant to 49 CFR Part 180. If a subject tank car continues in transportation after the date of its next required qualification without such marking being removed, FRA reserves the right to take appropriate enforcement action.

Issued in Washington, DC, on January 24, 2012

Robert C. Lauby
Acting Associate Administrator for Railroad Safety/Chief Safety Officer

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